The ‘Standard of Civilization’ in international law

Intellectual perspectives fom pre-war Japan

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Any history of international law in Japan and the discourse on Japan’s semi-civilized status begin with nineteenth-century European encounters. Although there is thick literature on the ‘pre-modern’ international order in the Far East, the normative connection between Japan’s various responses to this order, on the one hand, and its engagement with the nineteenth-century European notion of the standard of civilization, on the other, is not adequately spelled out.

I argue that what appears as a straightforward application of European international law and the standard of civilization in Japan’s late-nineteenth century imperial projects was in fact shaped by a long-standing process of Japan’s historical engagement with a system of cultural hierarchy in the regional order.

Given that ‘civilization’, as a political language of power, has always been external to the ordinary ways of living in any society and, therefore, an elite construction, here I refrain from venturing into depicting any ‘true meaning’ of civilization. Instead, my argument is that the Japanese discourse on cultural superiority historically engaged with dominant ideologies and deconstructed them to assert Japanese superiority – practices that date back to long before the European encounters in the nineteenth century.

As part of a hegemonic regional order based on cultural superiority, Japan accepted the dominance of China in the Confucianism-oriented Sinocentric regional order since the time of its first recorded history. Nevertheless, by the seventeenth century, Japan not only challenged China’s position as the centre of the universe but also gradually questioned the legitimacy of Confucianism, which was by then depicted as a foreign ideology. Japanese scholars such as Motoori Norinaga (1730–1801) developed their own nationalist logic (National Learning or *kokugaku*) of regional dominance based on the ancient Japanese Way of the Divine Kingdom and, with that, on the unbroken lineage of the Imperial family, to completely break with Chinese ideological hegemony. Also, faced with the emerging threat of European imperialism, early nineteenth-century scholars such as Seishisai Aizawa (1781–1863) demonized Christianity and European civilization and advocated for a ‘national-spirit’ (*kokutai*) by reinventing the ancient Way in line with National Learning.

It is against this historical backdrop that following the Meiji Restoration of 1868, Japanese intellectuals gave the European idea of the standard of civilization various new meanings, in line with Japan’s military strength and political convenience.

In Yukichi Fukuzawa's (1835–1901) writings, 'civilization' came to appear as a language of self-defence. He advocated for learning from Western civilization and setting it as the goal for Japan, but refrained from attributing any inherent value to it. He rather conceived of civilization within an instrumental framework of partisan, biased national interest: European civilization as the means of preserving independence, not as an end. The concept of civilization as self-defence morphed into the proposition that imperialism was civilization. What facilitated this shift was indeed the realization by the protagonists of Japanese modernization that their march towards civilization would not secure necessary recognition as a civilized nation from the West.

This moment of frustration and uneasiness, often symbolized by the continuation of the unequal treaty regime despite Japan's wholehearted Westernization, triggered more active persuasion of Western-style imperialism against neighbouring states. The political and military elites in the late-nineteenth century Japan were indeed convinced that imperialism equated civilization. This policy of imperial pursuits saw fruition as the Western powers finally agreed to renegotiate unequal treaties – only after Japan secured victory in an imperial war against China. As Okakura Kakuzo (also known as Tenshin) (1863–1913) eloquently noted in 1906: 'He [the West] was wont to regard Japan as barbarous while she [the East] indulged in the gentle arts of peace: he calls her civilized since she began to commit wholesale slaughter on Manchurian battlefields.'

Taken together, this story of Japan's engagement with the nineteenth-century European notion of the standard of civilization against the backdrop of its longstanding practice of dealing with dominant forces in the regional context helps us better understand the ideological structure of Japan's engagement with European powers and also with its Asian neighbours. While Japan's engagement with the nineteenth-century European idea of the standard of civilization took various forms – from self-defence to imperialism – the pattern of this engagement makes better sense in the context of Japanese responses to the pre-existing hierarchical regional order of the Far East.

In general, this contextualization of the nineteenth-century encounter between Europe and such an insular island-nation as Japan – within the framework of a pre-nineteenth century hierarchical regional order and the dynamic process of normative contestation therein – underscores the limits of Eurocentrism in international law scholarship. Recent efforts to acknowledge contributions of semi-peripheral elites to the development of international law since the mid-nineteenth century are therefore also limiting and do not fully break with Eurocentrism, in that they explain such contributions essentially as responses to the European international legal order. Japan's normative response to the nineteenth-century European civilization, or the development of Japanese international law ostensibly since then, or Japan's imperialism towards its Asian neighbours later in that century – none of these took place in a vacuum. Far from being merely a result of the encounter with Europe in the mid-nineteenth century, cultural hierarchy and hegemony have been omnipresent in the Far Eastern regional order, in which Japan engaged with its neighbours. While this paper does not claim any linear causal connection between

any particular pre-modern Japanese ideology and Japanese imperialism since its modernization, we have however demonstrated that Japan's relationship with Europe and its hegemony towards its neighbours was informed and shaped by a preexisting hierarchical order in the Far East.

By highlighting not only rich varieties of rules and vocabularies governing international relations in the non-European world but also the hegemonic underpinning of those non-European orders, this narrative thus highlights the relevance of non-European regional orders in the discourse on international legal history but simultaneously exposes asymmetric power relations within those orders with reference to the local varieties of civilizational discourse.

In this sense, this contextualization of the engagement with the nineteenth-century notion of the standard of civilization from Japanese perspectives raises a more general question about the inherent relationship between hegemony and international law. This also offers a framework for further research into the structures of other pre-colonial regional orders to examine ways in which the structures of those orders inform present-day regional asymmetric power relations. Here lies the general normative relevance of this project beyond the specific context of Japan.

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